

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

366M0366

HOUSE BILL NO. 1195

Introduced by: Representatives Wick, Brunner, Cutler, Elliott, Howie, Hunt, Kraus, McLaughlin, Novstrup, Rave, Rhoden, Roberts, Van Etten, and Weems and Senators Knudson, Duenwald, Koskan, and Smidt

1 FOR AN ACT ENTITLED, An Act to reduce state government reliance on video lottery
2 proceeds and to revise the distribution of video lottery proceeds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 42-7A-63 be amended to read as follows:

5 42-7A-63. The commission shall maximize revenues to the state from video lottery. The
6 state's percentage of net machine income shall be fifty percent. The state's percentage of net
7 machine income shall be directly deposited to the property tax reduction fund and education
8 enhancement trust fund created by S.D. Const., Art. XII, § 6, except for one-half of one percent
9 of net machine income authorized for deposit into the video lottery operating fund. ~~The effective~~
10 ~~date of this section is July 1, 1996.~~

11 The revenue collected pursuant to this section shall be distributed in the following manner:

12 (1) During fiscal year 2007, eighty-nine and one-half percent shall be deposited in the
13 property tax reduction fund. During fiscal year 2008, seventy-nine and one-half
14 percent shall be deposited in the property tax reduction fund. During fiscal year 2009,
15 sixty-nine and one-half percent shall be deposited in the property tax reduction fund.



1 During fiscal year 2010, fifty-nine and one-half percent shall be deposited in the
2 property tax reduction fund. During fiscal year 2011, forty-nine and one-half percent
3 shall be deposited in the property tax reduction fund. During fiscal year 2012, thirty-
4 nine and one-half percent shall be deposited in the property tax reduction fund.
5 During fiscal year 2013, twenty-nine and one-half percent shall be deposited in the
6 property tax reduction fund. During fiscal year 2014, nineteen and one-half percent
7 shall be deposited in the property tax reduction fund. During fiscal year 2015, nine
8 and one-half percent shall be deposited in the property tax reduction fund. Beginning
9 in fiscal year 2016 and each year thereafter, no lottery proceeds shall be deposited in
10 the property tax reduction fund; and

11 (2) During fiscal year 2007, ten percent shall be deposited in the education enhancement
12 trust fund created by S.D. Const., Art. XII, § 6. During fiscal year 2008, twenty
13 percent shall be deposited in the education enhancement trust fund. During fiscal year
14 2009, thirty percent shall be deposited in the education enhancement trust fund.
15 During fiscal year 2010, forty percent shall be deposited in the education
16 enhancement trust fund. During fiscal year 2011, fifty percent shall be deposited in
17 the education enhancement trust fund. During fiscal year 2012, sixty percent shall be
18 deposited in the education enhancement trust fund. During fiscal year 2013, seventy
19 percent shall be deposited in the education enhancement trust fund. During fiscal year
20 2014, eighty percent shall be deposited in the education enhancement trust fund.
21 During fiscal year 2015, ninety percent shall be deposited in the education
22 enhancement trust fund. Beginning in fiscal year 2016, and each year thereafter,
23 ninety-nine and one-half percent shall be deposited in the education enhancement
24 trust fund.

1 Section 2. The money deposited, pursuant to section 1 of this Act, in the education
2 enhancement trust fund created by S.D. Const., Art. XII, § 6, shall be reserved for the purpose
3 of using the investment income from such deposits to replace the revenue annually received
4 from the video lottery.

5 Section 3. That § 42-7A-1 be amended to read as follows:

6 42-7A-1. Terms used in this chapter mean:

- 7 (1) ~~"Associated equipment," any proprietary device, machine, or part used in the~~
8 ~~manufacture or maintenance of a video lottery machine, including but not limited to~~
9 ~~integrated circuit chips, printed wired assembly, printed wired boards, printing~~
10 ~~mechanisms, video display monitors, and metering devices;~~
- 11 (2) "Commission," the South Dakota Lottery Commission;
- 12 (3) ~~"Credit," five, ten, or twenty-five cents;~~
- 13 (4) "Executive director," the executive director of the South Dakota Lottery;
- 14 (5) "Instant lottery," a game that offers preprinted tickets that indicate immediately or in
15 a grand prize drawing whether the player has won a prize;
- 16 (6) ~~"Licensed establishment," a bar or lounge owned or managed by an individual,~~
17 ~~partnership, corporation, or association licensed to sell alcoholic beverages for~~
18 ~~consumption upon the premises where sold;~~
- 19 (7) "Lottery" or "state lottery," any lottery operated pursuant to this chapter;
- 20 (8) "Lottery retailer," any person with whom the South Dakota Lottery has contracted to
21 sell lottery tickets to the public;
- 22 (9) "Lottery vendor" or "vendor," any person who has entered into a major procurement
23 contract with the South Dakota Lottery;
- 24 (10) "Major procurement," any contract with any vendor directly involved in providing

1 facilities, equipment, tickets, and services unique to the lottery, but not including
2 materials, supplies, equipment, and services common to the ordinary operations of
3 state agencies;

4 (11) ~~"Net machine income," money put into a video lottery machine minus credits paid~~
5 ~~out in cash;~~

6 (12) "On-line lottery," a game linked to a central computer via a telecommunications
7 network in which the player selects a specified group of numbers or symbols out of
8 a predetermined range of numbers or symbols as approved by the commission;

9 (13) "South Dakota Lottery," the state agency created by this chapter to operate a lottery
10 pursuant to this chapter;

11 (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to
12 prove participation in an instant; or on-line; ~~or video lottery~~ game;

13 ~~—(14A) "Video lottery," any video game of chance played on video lottery machines;~~

14 ~~—(15) "Video lottery machine distributor," any individual, partnership, corporation, or~~
15 ~~association that distributes or sells video lottery machines or associated equipment~~
16 ~~in this state;~~

17 ~~—(16) "Video lottery machine manufacturer," any individual, partnership, corporation, or~~
18 ~~association that assembles or produces video lottery machines or associated~~
19 ~~equipment for sale or use in this state;~~

20 ~~—(17) "Video lottery machine operator," any individual, partnership, corporation, or~~
21 ~~association that places video lottery machines or associated equipment for public use~~
22 ~~in this state; and~~

23 ~~—(18) "Video lottery machines," or "machine," any electronic video game machine that,~~
24 ~~upon insertion of cash, is available to play or simulate the play of a video game,~~

1 ~~including but not limited to video poker, keno, and blackjack, authorized by the~~
2 ~~commission utilizing a video display and microprocessors in which, by chance, the~~
3 ~~player may receive free games or credits that can be redeemed for cash. The term~~
4 ~~does not include a machine that directly dispenses coins, cash, or tokens.~~

5 Section 4. That § 42-7A-4 be amended to read as follows:

6 42-7A-4. The executive director may, subject to policy established by the commission:

- 7 (1) Supervise and administer the operation of the state lottery in accordance with the
8 provisions of this chapter;
- 9 (2) Employ all other employees of the South Dakota Lottery;
- 10 (3) Enter into contracts for promotional services; annuities or other methods deemed
11 appropriate for the payment of prizes; data processing and other technical products,
12 equipment and services; and facilities as needed to operate the South Dakota Lottery
13 including, without limitation, tickets and other services involved in major
14 procurements;
- 15 (4) Contract with and license persons for the sale of lottery tickets ~~and the offering of~~
16 ~~video lottery games~~ to the public, as provided by this chapter and rules adopted
17 pursuant thereto;
- 18 (5) Make demographic studies of lottery players and studies of reactions of citizens to
19 existing and potential features of the lottery;
- 20 (6) Require lottery retailers and persons licensed pursuant to this chapter to furnish proof
21 of financial stability or furnish surety in an amount based upon the expected volume
22 of sales of lottery tickets ~~or net machine income~~;
- 23 (7) Provide for secure facilities to house the South Dakota Lottery;
- 24 (8) Provide for separate, distinct, and secure data processing facilities to be used for the

1 reliable operation of the state lottery;

2 (9) Examine, or cause to be examined by any agent or representative designated by the
3 executive director, any books, papers, records, or memoranda of any lottery retailer
4 or person licensed pursuant to this chapter for the purpose of ascertaining compliance
5 with any provision of this chapter or any rule adopted pursuant to this chapter;

6 (10) Issue subpoenas to compel access to or for the production of such books, papers,
7 records, or memoranda in the custody or control of any lottery retailer or person
8 licensed pursuant to this chapter, or to compel the appearance of any of their
9 employees, for the purpose of ascertaining compliance with any provision of this
10 chapter or any rule adopted pursuant to this chapter;

11 (11) Administer oaths and take depositions to the same extent and subject to the same
12 limitations as would apply if the deposition was in aid of a civil action in the circuit
13 court;

14 ~~(11A) The lottery commission shall operate a video lottery undertaken pursuant to this~~
15 ~~chapter and may not contract or assign this responsibility to any other person;~~

16 (12) Impose civil fines not to exceed ten thousand dollars per violation and fifteen
17 thousand dollars for any subsequent violation of any provision of this chapter or any
18 rule adopted pursuant to this chapter; and

19 (13) Enter into written agreements or compacts with one or more other states for the
20 operation, marketing and promotion of a joint lottery or joint lottery games.

21 Section 5. That § 42-7A-13 be amended to read as follows:

22 42-7A-13. To be selected as a lottery retailer ~~or video lottery machine operator~~, a natural
23 person acting as a sole proprietor shall:

24 (1) Be at least eighteen years of age;

- 1 (2) Be of good character and reputation;
- 2 (3) Have sufficient financial resources to support the activities required to sell lottery
- 3 tickets ~~or place and service video lottery machines~~; and
- 4 (4) Be current in payment of all taxes, interest, and penalties owed to the State of South
- 5 Dakota, excluding items under formal dispute or appeal pursuant to applicable
- 6 statutes.

7 A lottery retailer ~~or video lottery machine operator~~ may not be a lottery vendor or an

8 employee or agent of any lottery vendor doing business with the South Dakota Lottery.

9 Section 6. That § 42-7A-15 be amended to read as follows:

10 42-7A-15. For a partnership to be selected as a lottery retailer ~~or video lottery machine~~

11 ~~operator~~, the partnership shall meet the requirements of subdivisions 42-7A-13(3) and (4), and

12 each partner thereof shall meet the requirements of subdivisions 42-7A-13(1) and (2) and

13 subdivisions 42-7A-14(1) to (5), inclusive.

14 Section 7. That § 42-7A-16 be amended to read as follows:

15 42-7A-16. For an association or corporation to be selected as a lottery retailer ~~or video~~

16 ~~lottery machine operator~~, the association or corporation shall meet the requirements of

17 subdivisions 42-7A-13(3) and (4), and each officer and director and each stockholder who owns

18 five percent or more of the stock of such association or corporation shall meet the requirements

19 of subdivisions 42-7A-13(1) and (2) and subdivisions 42-7A-14(1) to (5), inclusive.

20 Section 8. That § 42-7A-21 be amended to read as follows:

21 42-7A-21. The commission shall promulgate rules pursuant to chapter 1-26 governing the

22 establishment and operation of a state lottery as necessary to carry out the purposes of this

23 chapter. The commission shall promulgate rules concerning the following:

- 24 (1) The types of ticket lottery games to be conducted as authorized pursuant to this

1 chapter;

2 (2) The manner of selecting the winning tickets. However, if a lottery game utilizes a
3 drawing of winning numbers, a drawing among entries, or a drawing among finalists,
4 such drawings shall always be open to the public and shall be recorded on both video
5 and audio tape;

6 (3) The manner of payment of prizes to the holders of winning tickets;

7 (4) The frequency of the drawings or selections of winning tickets;

8 (5) The types of locations at which tickets may be sold;

9 (6) The methods to be used in selling tickets;

10 (7) Additional qualifications for the selection of lottery retailers, ~~video lottery machine~~
11 ~~manufacturers, distributors, or operators~~ and the amount of application fees to be paid
12 by each;

13 (8) The amount and method of compensation to be paid to lottery retailers, including
14 special bonuses and incentives;

15 (9) Deadlines for claims for prizes by winners of each lottery game. However, in no
16 instance may such deadline be for more than one year;

17 ~~—(10) The mechanical and electronic specifications for each video lottery machine. At a~~
18 ~~minimum, each video lottery machine shall meet the requirements of § 42-7A-37;~~

19 ~~—(11) Machine security testing and inspection procedures;~~

20 ~~—(12) Liability for machine malfunction;~~

21 ~~—(13) Machine maintenance and repair;~~

22 ~~—(14) Financial responsibility of persons licensed under this chapter;~~

23 ~~—(15) Accounting procedures for net machine income;~~

24 ~~—(16) Licensing procedures under this chapter; and~~

(17) Such other matters necessary or desirable for the efficient or economical operation of the lottery or for the convenience of the public.

Section 9. That § 42-7A-24 be amended to read as follows:

42-7A-24. Net proceeds from the sale of instant lottery tickets shall be transferred to the state general fund on an annual basis after July first each year. The commission shall maximize the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained earnings, exceed the amount of combined net proceeds transferred to the state general fund, the state corrections facility construction fund, and the state capital construction fund. ~~Net machine income from video lottery games shall be directly deposited in the state property tax reduction fund upon receipt.~~ Net proceeds are funds in the lottery operating fund which are not needed for the payment of prizes, lottery expenses, and total retained earnings up to one and one-half million dollars cash deemed necessary by the executive director and commission for replacement, maintenance, and upgrade of business systems, product development, legal and operating contingencies of the lottery.

Beginning in fiscal year 1997 and each year thereafter, the commission shall transfer the first one million four hundred thousand dollars from the net proceeds from the sale of on-line ~~video~~ lottery tickets collected pursuant to § 42-7A-24 to the general fund. The commission shall then transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the state capital construction fund created in § 5-27-1.

Section 10. That § 42-7A-36 be amended to read as follows:

42-7A-36. No person may have in ~~his~~ possession, custody, or under ~~his~~ the person's control or permit to be kept in any place under ~~his~~ the person's possession or control, any device that awards credits and contains a circuit, meter or switch capable of removing and recording the

1 removal of credits when the award of credits is dependent upon chance. A violation of this
2 section is a Class 6 felony. All devices described in this section are hereby declared to be public
3 nuisances. ~~The provisions of this section do not apply to devices or electronic video game~~
4 ~~machines licensed pursuant to this chapter.~~

5 Section 11. That § 42-7A-56 be amended to read as follows:

6 42-7A-56. The Legislature hereby finds, and declares to be the public policy of this state
7 that:

8 (1) The success of the South Dakota Lottery is dependent upon public confidence and
9 trust that it is conducted honestly and free from criminal and corruptive elements;

10 (2) Public confidence and trust can only be maintained by strict regulation of all persons,
11 locations, practices, associations, and activities related to the sale of lottery products
12 ~~and the operation, manufacturing, and distribution of video lottery games and~~
13 ~~equipment; and~~

14 (3) No applicant for a license or other affirmative commission action has any right to a
15 license or to the granting of the approval sought. Any license issued or other
16 commission approval granted pursuant to the provisions of this chapter is a revocable
17 privilege, and no holder acquires any vested interest or property right therein or
18 thereunder.

19 Section 12. That § 22-36-2 be amended to read as follows:

20 22-36-2. No person may smoke tobacco or carry any lighted tobacco product in any public
21 place or place of employment. This section does not apply to any sleeping room in a lodging
22 establishment as defined in § 34-18-1, to any on-sale licensee pursuant to chapter 35-4, ~~to any~~
23 ~~video lottery licensed establishment pursuant to chapter 42-7A,~~ to any licensee pursuant to
24 chapter 42-7B, or to any tobacco or packaged liquor store if the store is primarily used for the

1 sale of tobacco or alcoholic beverages, or both, and the sale of other products is merely
2 incidental.

3 A violation of this section is a petty offense.

4 Section 13. Sections 3 to 12, inclusive, of this Act are effective on July 1, 2017.